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Looted and Stolen Art: Tackling the Repatriation Issue

Thousands of priceless works of art and artifacts have been stolen or looted throughout history, through outright theft and also during wars and conquests. Some obvious examples include the systematic theft of Jewish-owned art by Germans during World War II, and Native peoples' art taken in North America and elsewhere. How and whether repatriation of art and artifacts, such as these, should be carried out is an ongoing debate in the art community, with some experts claiming that the art belongs in museums, and others advocating the return of art to its place of origin or original owner. The survivors of wartime lootings and conquests often lost everything they had and barely escaped the situation with their lives; their art and artifacts may be the only things remaining to help them hold onto their cultural identity. Art and antiquities should be repatriated to the heirs of the victims of looting and theft when provenance is clear, except in cases where repatriation would be destructive to the art or artifact itself.

Some people disagree with repatriation, arguing instead that the best place for art and artifacts, regardless of how they were obtained, is almost always in a museum. "Given the fact that thousands of colonial objects in European museums lack sufficient documentation as to their provenance and acquisition, the reversal of proof challenges the established practice that objects, if in doubt of their origin, should remain in their current location" (Gissibil 187). Opponents of repatriation would assert that, if there is no clear and concrete argument to be put forth, it would be best to keep objects in museums, as opposed to returning them to their original owners. "First, they [museums] have the top-notch expertise needed to preserve the artifacts in their collection and carry out academic research" (Yoshiaki 217). Museums are indeed better equipped to keep

artifacts safe, along with the benefit that people can study and learn from artifacts when they are situated in publicly-accessible museums rather than in private collections. “[The museum’s] duty is to care for, interpret, and exhibit the collection and to preserve it for future generations in an enhanced form if possible” (qtd in Bickford 124). Bickford elaborates on this point by mentioning that museums are uniquely able to share the beauty of art they possess with the general public (131). While it is certainly true that repatriating art potentially reduces its level of care and accessibility to the public, these arguments do not outweigh the fact that the rightful owners or countries of origin have a right to their property, especially since the original owners often survived the trauma of war or conquest.

From the supporters’ point of view, there are compelling reasons why art and artifacts should be returned to their owners or country of origin, even though doing this is not always easy. Archeologist and Art History professor Margaret Miles believes that collecting and marketing art and artifacts is destructive to the cultural sites where the art originated (19). For example, if an archeologist, thief, or collector removes artifacts from a site, that site loses part of what culturally defines it, and some of these cultures are already struggling to retain their identity. “Claimants against museums, however, may regard such institutional defendants along the lines of storehouses of fungible properties, like banks, rather than stewards of unique artworks held in public trusts” (Cronin 546). Miles provides an example of this where a museum director claimed that museums’ needs are more important than a nation’s heritage (19). “We understand that museums have financial constraints...[but] they should push for bigger budgets around repatriation, too” (Collison and Levell 74). It takes considerable money and time to repatriate art and artifacts, and this is often not the highest priority for museums’ attention and financial resources. In a perfect world, art would not be looted in the first place, but when a museum finds itself in possession of an artifact with clear provenance, that museum has an ethical, if not legal, obligation to facilitate repatriation to its rightful owner.

People on both sides of the issue agree that there are often thorny issues in determining the provenance of an artifact, and also that dragging these cases through the court system is undesirable for everyone concerned. “Mandated mediation would allow for claimants to have their voices heard, for both parties to avoid costly and timely litigation, and if conducted privately, reduce backlash against museums that could diminish public opinion of the museums and cause a decrease in attendance” (Bickford 133). If settlements can be made outside of the court system, it would reduce the expense and other negative effects of going through that legal process. “The executive branch should step in to provide relief to Holocaust survivors while also protecting its foreign policy interests and the presumption against suing foreign sovereigns in the U.S.” (Tenkhoff 603). Tenkhoff also mentions a possible route where the U.S pledges to file briefs in “cases where foreign sovereigns are defendants” (600). “It would be anomalous to allocate every art object retroactively to the nation of its origin” (qtd in Yoshiaki 214). There is not always a feasible way to repatriate every artifact to its rightful owner(s), since often the country of origin no longer exists; however, challenges remain even if it is clear to whom that artifact belongs. While it is certainly true that some artifacts would be impossible to repatriate even when the chain of title is clear, there appears to be agreement that many works can be successfully repatriated by mutual agreement and without the intervention of the legal system.

A lot of difficult and creative work has been done to find solutions, and a key factor is collaboration among international partners, federal, state, and local government entities, art institutes, museums, and advocacy groups. “We can never ease the horrors of Nazi Germany from history, but we can, and should, take every opportunity to deliver any justice we can including the return of property to rightful heirs” (Bacon). Joanna Catron, Curator of Belmont, noted the importance of collaborative solutions in the recent repatriation of the Gari Melchers' painting, "Winter," stating she was contacted by the FBI and was able to verify the provenance of the painting via Melchers' ledger books at Belmont (Uphaus-Connor). “A restitution committee

can advise museum boards of directors on alternative methods of dispute resolution and match museums with resources to effectively implement resolutions” (Smith 280). Legal measures can potentially be avoided if there is a committee involved in the process of problem-solving.

“ARCHEO [an international art tracking communication tool used by the United Nations] brings together professionals and experts from the field of protection of cultural heritage in order to assist the work of customs through facilitating the identification of suspected items, in order to strengthen enforcement in this area” (Boz). A common platform for logging and communicating the status of artifacts is key when identifying what should be done in these situations, especially when different governments are involved. There are many tools available to assist in the repatriation of art, and the recent case of the return of the Gari Melchers painting to its rightful heirs (a German Jewish family) is a glowing testament that these collaborative solutions work.

In summary, it is clear that there are valid and strong arguments on both sides of the repatriation issue, but most experts seem interested in reaching workable solutions. Opponents of repatriation believe that articles should stay in museums and that provenance is often difficult to prove; however, this does not negate the museums’ responsibility to make things right concerning ownership. Other experts believe that the most important goal in repatriation decisions is getting the art or artifact back to its rightful owner or surviving heirs of the victim of the looting. It seems that there is a lot of common ground when it comes to the desire to avoid legal proceedings and to endorse the use of mediation to come to an agreeable disposition of the property in question. UNESCO and other entities are working together to develop tracking tools and find creative solutions to this very difficult question in the art world. Taking all this information into account, and acknowledging the complexity of the issue, art and artifacts can and should be repatriated to the surviving heirs or country of origin when ownership is proven.

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